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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,313	05/16/2007	James W. Cree	TRED54 (345 US)	3997
53476 7590 04/27/2011 TESSARI PATENT LAW GROUP, PLLC 301 LINDENWOOD DRIVE - SUITE 206 MALVERN, PA 19355				
EXAMINER				
VONCH, JEFFREY A				
ART UNIT		PAPER NUMBER		
1788				
MAIL DATE		DELIVERY MODE		
04/27/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,313

Applicant(s)

CREE ET AL.

Examiner

Jeff A. Vonch

Art Unit

1788

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7, 10-14, 16, 18, 27, 28, 41 and 45-48 is/are pending in the application.
- 4a) Of the above claim(s) 1-3, 7, 10-14, 16-18, 27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41 and 45-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No.(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 23rd, 2011 has been entered.

Response to Amendment

2. Applicant's amendments filed February 23rd, 2011 have entered. Claims 41 and 45-47 have been amended. Claim 48 has been added.
3. All Section 102 Rejections have been withdrawn due to Applicant's amendments.

NEW REJECTIONS

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

5. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curro et al. (WO 2000/037249) (hereinafter "Curro"), as evidenced by Ahr et al. (U.S. Patent No. 4,463,045) (hereinafter "Ahr") in view of Young et al. (U.S. Patent No. 5,626,571) (hereinafter "Young").
6. Regarding claim 48, Curro teaches a bonded (page 6, paragraph 4) carded (page 6, paragraph 2), extensible (page 5, paragraph 5) fibrous nonwoven web/elastic film laminate, used

as a topsheet in an absorbent article that can be an incontinent device or catamenial product (page 16, paragraphs 1-2), where an apertured nonwoven is thermally bonded to an apertured film (abstract) (page 3, Summary of the Invention). The apertures in the nonwoven layer expose the apertured film (pg. 13, paragraph 4). Curro does not expressly teach vacuum aperturing but incorporates Ahr by reference (which discloses a preferred means of aperturing) (pg. 12, paragraph 2). Ahr teaches forming a three dimensional apertured film using a vacuum (col. 16, lines 6-32).

7. Curro does not teach aperturing by stretching the web without weakening or tearing.
8. Young teaches a nonwoven used as a topsheet (col. 7, lines 16-17) in an adult garment wherein the nonwoven is an inelastic (extensible) that is activation stretched without splitting or tearing (col. 8, lines 5-28) wherein the stretching creates apertures.
9. It would have been obvious to one of ordinary skill in the art at the time of invention to provide Young's nonwoven topsheet as Curro's nonwoven sheet to form a composite topsheet. One of ordinary skill in the art would have been motivated to have a higher toughness and elasticity and more able to withstand sudden tensile forces experienced in wearing disposable articles (col. 6, lines 45-57).
10. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Young et al. (U.S. Patent No. 5,626,571) (hereinafter "Young") in view of Kajander (5,171,238) (hereinafter "Kajander").
11. Regarding claim 48, Young teaches an inelastic (extensible) (col. 6, lines 5-14) bonded (col. 4, lines 25-41), carded nonwoven (col. 5, lines 56-58) used as a topsheet (col. 7, lines 16-

17) in an adult garment wherein the nonwoven is activation stretched without splitting or tearing (col. 8, lines 5-28) wherein the stretching creates apertures (access areas).

12. Regarding claim 48, Young does not teach a thermally bonding the film to form a laminate wherein the film is a polyethylene vacuum formed/apertured film wherein the film is exposed through access areas.

13. Kajander teaches a topsheet (abstract) consisting of a apertured nonwoven film laminate (col. 3, lines 22-25) having a reinforcing sheet of a vacuum laminated and formed film (col. 3, lines 57-63) wherein the film is made form polyethylene (col. 3, lines 22-25).

14. It would have been obvious to one of ordinary skill in the art at the time of invention to laminate a nonwoven used as a topsheet to a vacuum formed film. One of ordinary skill in the art would have been motivated to thermally bond a nonwoven topsheet (col. 3, lines 24-25) with a film wherein the film is vacuum apertured to trap fluids within the pad (col. 3, lines 49-56).

15. Claims 41 and 45-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morman et al. (U.S. Pub. No. 2004/0121687 A1) (hereinafter "Morman") in view of Young et al. (U.S. Patent No. 5,626,571) (hereinafter "Young") and Kajander (5,171,238) (hereinafter "Kajander").

16. Regarding claims 41 and 45-47, Young teaches an inelastic (extensible) (col. 6, lines 5-14) bonded (col. 4, lines 25-41), carded nonwoven (col. 5, lines 56-58) used as a topsheet (col. 7, lines 16-17) in an adult garment wherein the nonwoven is activation stretched without splitting or tearing (col. 8, lines 5-28) wherein the stretching creates apertures (access areas).

17. Regarding claim 41, Young does not teach a thermally bonding the film to form a laminate wherein the film is a polyethylene vacuum formed/apertured film and the film is exposed through access areas or that the laminate is stretched.

18. Kajander teaches a topsheet (abstract) consisting of a apertured nonwoven film laminate (col. 3, lines 22-25) having a reinforcing sheet of a vacuum laminated and formed film (col. 3, lines 57-63) wherein the film is made form polyethylene (col. 3, lines 22-25).

19. It would have been obvious to one of ordinary skill in the art at the time of invention to laminate a nonwoven used as a topsheet to a vacuum formed film. One of ordinary skill in the art would have been motivated to thermally bond a nonwoven topsheet (col. 3, lines 24-25) with a film wherein the film is vacuum apertured to trap fluids within the pad (col. 3, lines 49-56).

20. The apertures in Young would inherently expose the film laminated below, however, neither Young nor Kajander teach activation stretching the laminate.

21. Morman teaches a laminate, suitable for use in an absorbent article such as a feminine hygiene product [0055] consisting of a bonded carded nonwoven fibrous web [0037 & 0063] thermally bonded [0090] to a polyolefin (polyethylene/polypropylene) film [0077] to form a unified structure and then activation stretching it to stretch the unified structure [0092].

22. It would have been obvious to one of ordinary skill in the art at the time of invention to activation stretch a nonwoven/film laminate. One of ordinary skill in the art would have been motivated to improve stretch properties in a laminate [0083-0084].

Response to Arguments

23. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff A. Vonch whose telephone number is (571) 270-1134. The examiner can normally be reached on Monday to Thursday 8:30-6:00 EST.

25. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alicia Chevalier can be reached on (571) 272-1490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

26. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia L. Nordmeyer/
Primary Examiner, Art Unit 1788

/J. A. V./
Jeff A. Vonch
Patent Examiner, Art Unit 1788

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April 21st, 2011